

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NAFTALI IVRY
on behalf of himself and
all other similarly situated consumers

Plaintiff,

-against-

AMERICAN CORADIUS INTERNATIONAL LLC

Defendant.

CV - 14 3270

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U.S. DISTRICT COURT E.D.N.Y.

★ MAY 27 2014 ★

LONG ISLAND OFFICE

CLASS ACTION COMPLAINT

Introduction

**DEARIE, J.
AZRACK, M.**

1. Plaintiff Naftali Ivry seeks redress for the illegal practices of American Coradius International LLC concerning the collection of debts, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA").

Parties

2. Plaintiff is a citizen of the State of New York who resides within this District.
3. Plaintiff is a consumer as that term is defined by Section 1692(a)(3) of the FDCPA, in that the alleged debt that Defendant sought to collect from Plaintiff a consumer debt.
4. Upon information and belief, Defendant's principal place of business is located in Amherst, New York.
5. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.
6. Defendant is a "debt collector" as that term is defined by the FDCPA, 15 U.S.C. § 1692(a)(6).

Jurisdiction and Venue

7. This Court has federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as the acts and transactions that give rise to this action occurred, in substantial part, in this district.

Allegations Particular to Naftali Ivry

9. Upon information and belief, on a date better known by Defendant, Defendant began to attempt to collect an alleged consumer debt from the Plaintiff.
10. On or about May 23, 2013, Defendant sent the Plaintiff a collection letter seeking to collect a balance allegedly incurred for personal purposes.
11. The said letter stated in pertinent part as follows: "As of the date of this letter you owe \$1,843.08. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence if you pay the amount shown above an adjustment may be necessary after we receive your payment. If an adjustment is made, we may attempt to contact you again about the adjustment. For further information, write the undersigned or call 1-888-863-8462."
12. Upon information and belief, the said language in the above letter deceptively threatens "late charges" and "other charges" of which the Defendant does not engage.
13. Said language is vague as to a mechanism for the consumer to determine exactly how much the debt will be on a date certain.

A debtor that chooses to timely pay the debt is advised of the amount of payment that will completely satisfy his obligation. On the other hand, a debtor that neglects his or her account is notified of the ever-increasing amount that accrues by the failure to promptly

satisfy the debt. Kolganov v. Phillips & Cohen Associates, 2004 WL 958028 *3 (E.D.N.Y.)

14. The said language leaves the Plaintiff unsure of the final amount of the debt; i.e. once he has paid the said amount, will this be the final amount or would he will be subjected to more fees.
15. Defendant's letter is in violation of 15 U.S.C. §§ 1692e(5) and 1692e(10) for engaging in deceptive practices.

AS AND FOR A FIRST CAUSE OF ACTION

Violations of the Fair Debt Collection Practices Act brought by Plaintiff on behalf of himself and the members of a class, as against the Defendant.

16. Plaintiff re-states, re-alleges, and incorporates herein by reference, paragraphs one (1) through fifteen (15) as if set forth fully in this cause of action.
17. This cause of action is brought on behalf of Plaintiff and the members of a class.
18. The class consists of all persons whom Defendant's records reflect resided in the State of New York and who were sent a collection letter in substantially the same form letter as the letter sent to the Plaintiff on or about May 23, 2013; and (a) the collection letter was sent to a consumer seeking payment of a personal debt purportedly owed to PayPal, Inc.; and (b) the collection letter was not returned by the postal service as undelivered; (c) and the Plaintiff asserts that the letter contained violations of 15 U.S.C. §§ 1692e(5) and 1692e(10) for false threats of deceptive actions.
19. Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:
 - A. Based on the fact that a form collection letter is at the heart of this litigation, the class is so numerous that joinder of all members is impracticable.

B. There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether the Defendant violated the FDCPA.

C. The only individual issue is the identification of the consumers who received such collection letters, (*i.e.* the class members), a matter capable of ministerial determination from the records of Defendant.

D. The claims of the Plaintiff are typical of those of the class members. All are based on the same facts and legal theories.

E. The Plaintiff will fairly and adequately represent the class members' interests. The Plaintiff has retained counsel experienced in bringing class actions and collection-abuse claims. The Plaintiff's interests are consistent with those of the members of the class.

20. A class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA. 15 U.S.C. § 1692(k). The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the classes would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.

21. If the facts are discovered to be appropriate, the Plaintiff will seek to certify a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

22. Collection attempts, such as those made by the Defendant are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer."

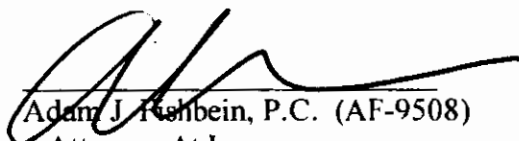
Violations of the Fair Debt Collection Practices Act

23. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.
24. Because the Defendant violated the Fair Debt Collection Practices Act, the Plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff, respectfully requests preliminary and permanent injunctive relief, and that this Court enter judgment in his favor and against the Defendant and award damages as follows:


- (a) Statutory and actual damages provided under the FDCPA, 15 U.S.C. § 1692(k);
- (b) Attorney fees, litigation expenses and costs incurred in bringing this action; and
- (c) Any other relief that this Court deems appropriate and just under the circumstances.

Dated: Cedarhurst, New York
May 22, 2014


Adam J. Feinbein, P.C. (AF-9508)
Attorney At Law

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Facsimile (516) 791-4411

Plaintiff requests trial by jury on all issues so triable.


Adam J. Fishbein (AF-9508)

35A RUST LANE
BOERNE, TX 78006-8202American Coradius International LLC
14228 Sweet Home Rd Ste 150
Amherst NY 14228-2244


May 23, 2013

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IVRY NAFTALI
2389 NOSTRAND AVE APT 3E
BROOKLYN NY 11210-4002

Creditor:	PayPal, Inc.
Original Creditor:	PayPal, Inc.
Account Number:	1953143108829472083
Account Balance:	\$1,843.08
Amount Remitted:	\$

Make Checks Payable to:


AMERICAN CORADIUS INTERNATIONAL LLC
2420 SWEET HOME RD STE 150
AMHERST NY 14228-2244

PLEASE DETACH HERE AND RETURN THIS PORTION WITH YOUR PAYMENT IN THE ENVELOPE PROVIDED

Creditor	Original Creditor	Account #	Account Balance
PayPal, Inc.	PayPal, Inc.	1953143108829472083	\$1,843.08

Dear Ivry Naftali

We are writing to you regarding your PayPal, Inc. account. This account has been placed with our office for collection.

As of the date of this letter you owe \$1,843.08. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence if you pay the amount shown above, an adjustment may be necessary after we receive your payment. If an adjustment is made, we may attempt to contact you again about the adjustment. For further information, write the undersigned or call 1-888-863-8462.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

Sincerely,

Robert Duggan
American Coradius International LLC
A Professional Debt Recovery Agency

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Calls to or from this company may be monitored or recorded for quality assurance purposes.

This collection agency is licensed by the Department of Consumer Affairs of the City of New York, License #'s 1308352, 1308356

For your convenience you can now resolve this matter online. Logon to www.acibillpay.com to see the repayment options available to you.

You will need your 7 digit ACI reference number 5819511 available when you log in.

You can now make payment arrangements on your account using checking, credit card or debit card accounts.

Office Address: 2420 Sweet Home Rd Ste 150, Amherst NY 14228-2244
Hours of Operation: Mon-Thurs: 8AM-9PM, Fri: 8AM-5PM, Sat: 8AM-12PM EST